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CITATIONS

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In the Supreme Court of the United States

OCTOBER TERM, 1948

No. 435

INLAND STEEL COMPANY, PETITIONER

v.

NATIONAL LABOR RELATIONS BOARD

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

BRIEF FOR THE NATIONAL LABOR RELATIONS BOARD IN OPPOSITION

OPINIONS BELOW

The opinion of the court below (R. 406–440) is not yet reported.[1] The findings of fact, conclusions of law and order of the National Labor Relations Board (R. 56–105) are reported in 77 N. L. R. B. 1.

[1] The opinion of the court below reflects the unanimous opinion of the three judges on the question presented by the instant case (R. 406–419, 434, 440). It also contains the opinion of the court below (R. 434–440) and the dissenting opinion of Judge Major (R. 419–434) on the question presented by *United Steelworkers of America, et al.* v. *National Labor Relations Board*. The latter case is before this Court upon a petition for a writ of certiorari filed by United Steelworkers of America, C. I. O., in No. 431, this Term.

JURISDICTION

The decree of the court below was entered on October 28, 1948 (R. 442–444). The petition for a writ of certiorari was filed on November 26, 1948. The jurisdiction of this Court is invoked under 28 U. S. C. 1254, and under Section 10 (e) of the National Labor Relations Act.

QUESTION PRESENTED

Whether the National Labor Relations Board properly determined that the refusal of an employer to bargain upon request with the exclusive bargaining representative of its employees in an appropriate unit, with respect to pension and retirement matters affecting the employees, constituted a refusal to bargain collectively within the meaning of Section 8 (5) of the Act.

STATUTES INVOLVED

The pertinent provisions of the National Labor Relations Act of 1935 (49 Stat. 449, 29 U. S. C. 151, *et seq.*) and of the Labor Management Relations Act of 1947 (61 Stat. 136, 29 U. S. C. Supp. I, 141, *et seq.*) are set forth in the Appendix, *infra*, pp. 23–25.

STATEMENT

Upon the usual proceedings under Section 10 of the Act, the Board, on April 12, 1948, issued its findings of fact, conclusions of law, and order

(R. 56–105).[2] The pertinent facts, as found by the Board and shown by the evidence, and which are not in dispute (Pet. 4), may be summarized as follows:[3]

Inland Steel Company, hereinafter called the Company, and United Steelworkers of America, C. I. O., hereinafter called the Union, stipulated (R. 83; 218–219) that all production, maintenance, and transportation workers employed by the Company, excluding foremen and other specified classes of employees, constitute an appropriate bargaining unit, and that at all times since May 23, 1942, the Union has been the exclusive bargaining representative of all the employees in such unit.

In January 1936, before the Company's employees had a certified bargaining representative and before any collective bargaining between the Company and the employees had taken place (R. 84; 219–220), the Company established its original retirement plan (R. 84; 219). This plan provided for contributions by participating employees and for payment of retirement annuities pursuant to a contract between the Company and the Equitable Life Assurance Society of the

[2] In its decision (R. 56–73), the Board adopted, with substantial additions and modifications, the findings, conclusions, and recommendations contained in the trial examiner's intermediate report (R. 80–105).

[3] In the following statement, the references preceding the semicolon are to the Board's findings; succeeding references are to the supporting evidence.

United States (R. 84; 219, 229). Participation in the plan was optional and was available only to employees earning at least $250 per month (R. 84; 227).

On August 5, 1942, the Company and the Union entered into their first collective bargaining contract (R. 84; 332–333). The contract made no mention of the retirement plan. It provided for recognition of the Union, and included a maintenance of membership clause and numerous provisions with respect to wages, hours, vacations, and other matters not material here. (R. 84–85; 332–333). In December 1944, or January 1945, the Company, without giving notice to, or bargaining with, the Union in respect thereto, amended its retirement plan so as to make participation in its benefits available to all employees who elected to participate in the plan and who had reached thirty years of age and who had five years of service with the Company (R. 58, 85; 220, 238).[4] The amended plan was supported by joint contributions by the Company and by participating employees (R. 85; 239–240).

On April 30, 1945, the Company and the Union entered into a new contract which by its terms replaced the 1942 agreement (R. 85; 219, 151–189), and continued in effect until October 15, 1946 (R. 85; 180). This contract was amended on February 16, 1946 and extended to February 15,

[4] The terms of the amendments were made effective retroactively as of December 1943 (R. 58; 248–249).

1947 (R. 85; 187–188, 219, 333). In addition to restating, with some variations, the provisions of the 1942 contract, the 1945 agreement contained a number of new provisions. Among the latter were those dealing with "in-plant feeding" of employees (R. 85; 177) and dismissal or severance pay for employees who might be displaced as a result of the Company's closing certain wartime facilities in order to reduce production costs (R. 85; 177–179).

The severance pay section of the contract did not provide for specific payments. It was included in the contract merely as a statement of principle in which the Company and the Union agreed to accept a portion of a directive of the National War Labor Board, dated November 25, 1944, which approved the principle of severance pay and directed the parties "to negotiate the terms of a severance pay agreement appropriate to each plant * * *" (R. 85; 179). The directive, as quoted in the 1945 contract, further stated as follows (R. 85; 178):

> Among the provisions which should be worked out through collective bargaining are those relating to the eligibility of employees, the amount of severance pay benefits, and circumstances under which the benefits should be paid, the transfer of employees to other suitable employment, *the relation to existing pension and retirement plans, etc.* [Italics supplied.]

Although the contract provided that the "Company and the Union agree to negotiate with regard to this directive" (R. 179), the parties, in negotiating the 1945 contract, engaged in no bargaining about matters relating to retirement or pension plans, and neither the Company nor the Union has requested collective bargaining pursuant to the contract clause providing for such bargaining, quoted immediately above (R. 85–86; 223).

On December 28, 1945, the Company, again without first consulting or notifying the Union, established its Past Service Pension Trust (R. 86; 220–221). The Pension Trust provided benefits for employees for service rendered the Company prior to the effective date of the Company's Retirement Plan (R. 86; 308–309). Its purpose, according to the Company, was to make special provision for older employees whose retirement date would occur so soon after they became eligible to participate in the Retirement Plan that they would not otherwise receive the retirement annuity benefits intended (R. 86; 333–334). The Pension Trust was financed by the Company without employee contributions (R. 86; 314) and provided that, absent exceptional circumstances, every employee must be retired at the age of sixty-five (R. 86; 309).

Between December 28, 1945, and February 22, 1946, the Company announced its intention to retire approximately 256 employees as of March

31, 1946, because they had reached the age of sixty-five (R. 86; 221). On February 22, 1946, the Union filed a grievance with the Company in which it protested the Company's contemplated action and declared that the automatic retirement of employees at the age of sixty-five would be a breach of the seniority-and-discharge-notice provisions of the Company's contract with the Union (R. 87; 221). On March 5, 1946, at a meeting between representatives of the two parties, the Company notified the Union that it would not negotiate or deal with the Union concerning the grievance, on the ground that the Union had no right to question the Company's policies with respect to the retirement of employees (R. 87; 221–222).

Thereafter, the Union's membership authorized its executive board to take strike action if the Company persisted in enforcing its retirement policies (R. 87; 202–203). The Union's executive board, however, decided against calling a strike (R. 87; 204).

On March 25, 1946, the Company and the Union held another meeting in which the Company again refused to discuss the Union's grievance concerning the Company's retirement policies (R. 87–88; 221–222). The Company concluded the meeting with the statement that it would not discuss retirement matters further with the Union on the ground that the legal issues involved in the question of an employer's obligation under the Act

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to bargain collectively on the subject of retirement of employees would have to be presented to the National Labor Relations Board (R. 87–88; 222).

On April 1, 1946, and on various dates thereafter, the Company, without consulting the Union, retired 224 employees in accordance with the provisions of the Retirement Plan and the Pension Trust (R. 88; 222).

The Board found that the Company, by its conduct described above, had refused to bargain with the Union concerning the substance and application of its pension and retirement program, and that the Company is continuing to do so "because of its fixed view that the establishment and operation of such a program is a management function outside the scope of the collective bargaining rights granted employees under the Act" (R. 72, 101).

The Board ruled that pension and retirement matters are part of the subject matter of collective bargaining as contemplated and required by the Act because they fall within the terms "wages" and "other conditions of employment" as used in Section 9 (a) and because the legislative history of the Act shows a Congressional intent that such subjects be encompassed within the collective bargaining obligation (R. 58, 59, 63, 65). The Board, therefore, held that an employer, both under the original Act and the Act

as amended, is under "a statutory duty to bargain collectively with the accredited representative" of his employees in an appropriate unit "concerning the terms of a pension and retirement program" (R. 67–70). Accordingly, the Board concluded (R. 70, 72) that the Company, by refusing to bargain with the Union concerning the Company's pension and retirement program, had violated Section 8 (5) and (1) of the Act.

The Board ordered the Company to cease refusing to bargain collectively with the Union regarding the Company's pension and retirement policies, and to cease making changes in them which would affect the employees involved, without first consulting with the Union, and directed the Company, upon request, to bargain with the Union with respect to its pension and retirement policies (R. 73–74).[5] The order also requires the Company to post appropriate notices of compliance (R. 74).[6] Board Member Gray dissented (R. 76–78).

[5] The Board conditioned these portions of its order upon the Union's compliance, within thirty days from the date of the order, with the filing and reporting requirements of Section 9 (f), (g), and (h) of the Act as amended (R. 73–74). The question of the propriety of this condition is not presented in the instant case. That question is presented by the Union's petition for a writ of certiorari in No. 431.

[6] The order provided that the notices were to be posted forthwith for a period of thirty days. If, within that time, the Union complied with Section 9 (f), (g), and (h) of the amended Act, the notices were to remain posted for an additional thirty days (R. 74).

The Company filed a petition for review of the Board's order in the court below (R. 1–45). On September 23, 1948, the court handed down its unanimous opinion on this question (R. 406–440), and, on October 28, 1948, entered its decree (R. 442–444) enforcing the Board's order.[7]

ARGUMENT

While the ruling of the court below, that the National Labor Relations Act imposes upon an employer the obligation to bargain collectively with respect to pension and retirement matters affecting his employees, involves a question of importance, the decision so clearly follows the terms of the Act, read in the light of its purpose, and is so clearly in accord with principles enunciated by this and other courts, that there is no need for further review. Contrary to the

[7] As noted above (*supra*, p. 9, fn. 5), the Board conditioned the effectiveness of its bargaining order upon the Union's compliance, within thirty days from the date of the order, with the filing and reporting requirements contained in Section 9 of the Act as amended. The court's decree modified the Board's order in this respect. The decree provides that the bargaining order shall be effective "if and when" * * * [the Union] shall have complied within thirty (30) days from the date of this Decree (or, in the event that the Union shall file a petition for a writ of certiorari in the Supreme Court of the United States within the time limited by law, then within thirty (30) days after the denial of such petition, or, if said petition be granted, within thirty (30) days after the issuance of the mandate of the Supreme Court of the United States in the proceedings upon said writ of certiorari) with Section 9 (h) of the Act as amended * * *" (R. 442–443).

Company's contention (Pet. 12–19), there are no conflicting decisions.

1. Section 8 (5) of the Act requires an employer "to bargain collectively with the representatives of his employees, subject to the provisions of Section 9 (a)," and the latter section provides that the duly selected representative of the employees in an appropriate unit shall be their exclusive representative "for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment * * *." These phrases compose the statute's principal delineation of the scope of the collective bargaining requirement.

The Board held that pension and retirement matters are encompassed by the terms "wages" and "other conditions of employment" as used in Section 9 (a) of the Act (R. 59–70). The court below agreed, stating (R. 412):

> we are convinced that the language employed by Congress, considered in connection with the purpose of the Act, so clearly includes a retirement and pension plan as to leave little, if any, room for construction.

The contributions which an employer makes to a pension plan form part of the compensation or remuneration received by the employee for his labor. Both the weekly wage and the pension benefits are received by the employee in return for his labor and not for any other reason. The future pension benefits are a product of the work-

er's current labor and thus enhance the total return upon his labor. If he were employed at a corresponding job at the same cash wage at another plant which had no pension plan, he would be receiving less for his labor than he now receives. Therefore, the Board could correctly conclude, as it did (R. 60), that such pension contributions by an employer are "emoluments of value * * * which may accrue to employees out of their employment relationship * * *" that the contribution "in whole or in part * * * provides a desirable form of insurance annuity which employees could otherwise obtain only by creating a reserve out of their current money wages or purchasing similar protection in the open market. In substance, therefore, the * * * [Company's] monetary contribution to the pension plan constitutes an economic enhancement of the employees' money wages, their actual total current compensation is reflected by both types of items."

This and other courts have noted that it is essential to the collective bargaining process that the employer deal with the Union with respect to all matters affecting the compensation of employees. The manner in which, the times at which, and the persons to whom any increase in remuneration goes are the most important aspects of bargaining. If some groups receive increased compensation, it may be at the expense of other groups or "at the cost of breaking down some

other standard thought to be for the welfare of the group." *J. I. Case Co.* v. *National Labor Relations Board,* 321 U. S. 332, 338. It is, therefore, "generally conceded to include the right of the representative of the unit to be consulted and to bargain about *the exceptional* as well as the routine rates, rules and working conditions" (italics supplied). *Railroad Telegraphers* v. *Railway Express Agency, Inc.,* 321 U. S. 342, 346–347. This Court has said, further, that a "Welfare and Retirement Fund and a Medical and Hospital Fund" are matters which "normally constitute the subject matter of collective bargaining between employer and employee." *United States* v. *United Mine Workers of America,* 330 U. S. 258, 286–287. From a realistic point of view alone, therefore, the Board was warranted in concluding that pension contributions by an employer are part of the whole wage structure of his plant and reasonably fall within the statutory term "wages" as a subject of compulsory collective bargaining.

The reasonableness of a construction of the term "wages" as used in the Act to include pension and retirement matters is demonstrated further by the broad interpretation given the term by courts which have construed it in other settings. The court below observed, for instance (R. 416–417), that,

> the Board has been sustained in a number of cases where it has treated for the pur-

> pose of remedying the effects of discriminatory discharges, in violation of Section 8 (3) of the Act, pension and other "beneficial insurance rights of employees as part of the employees' real wages and, in accordance with its authority under Section 10 (c), to order reinstatement of employees with * * * back pay," and has required the employer to restore such benefits to employees discriminated against. See *Butler Bros., et al.* v. *N. L. R. B.*, 134 F. 2d 981, 985, *General Motors Corp.* v. *N. L. R. B.*, 150 F. 2d 201, and *N. L. R. B.* v. *Stackpole Carbon Co.*, 128 F. 2d 188. In the latter case, the court stated (page 191), that the Board's conclusion "seems to us to be in line with the purposes of the Act for the insurance rights in substance were part of the employee's wages."

Similarly, the court below observed (R. 417), that

> In the Social Security Act (49 Stat. 642, Sec. 907, 42 U. S. C. A. Sec. 1107), the same Congress which enacted the National Labor Relations Act defined taxable "wages" as embracing "all remuneration * * * for services performed by an employee for his employer, including the cash value of all remuneration paid in any medium other than cash * * *". This definition has been construed, as the Supreme Court noted, in *Social Security Board* v. *Nierotko*, 327 U. S. 358, 365 (note 17), as including "vacation allowances," "sick pay," and "dismissal pay."

And, to the same effect (*ibid.*),

> In the field of taxation, pension and retirement allowances have been deemed to be income of the recipients within the Internal Revenue Act definition of wages as "compensation for personal services." (26 U. S. C. A. Int. Rev. Code Sec. 22 (a)) * * * *Hooker* v. *Hoey,* 27 F. Supp. 489, 490, affirmed 107 F. 2d 1016 * * *

The above considerations, we submit, demonstrate that the Board has placed a wholly reasonable construction upon the statutory term "wages" in concluding that, for the purposes of the collective bargaining requirement of the Act, the term includes an employer's contributions to a pension plan for the benefit of his employees.

In addition, such a plan clearly falls within the compulsory bargaining requirement as a "condition of employment." While a man works in a plant which has a pension plan he is building an interest in the pension fund upon which he will draw when he retires. It would deny the plain meaning and "natural construction" of words (*Phelps Dodge Corp.* v. *National Labor Relations Board,* 313 U. S. 177, 186) to say that such a pension arrangement is not a "condition" of the man's employment.

Similarly, no plainer example of a "condition of employment" could be found than the compulsory retirement feature of a pension plan, which the Company asserted in the court below is in-

extricably a part of any pension plan (R. 410). The condition under which the employee works is that he will be required to cease work at a specified age. Compensation aside, no more vital condition could attach to a man's employment than the condition that it be terminated at a certain date. The contention that the Act does not require an employer to bargain about termination of employment because of age cannot be squared with the accepted fact that it does require him to bargain about termination in the form of nondiscriminatory discharges or lay-offs for other causes. *National Licorice Co.* v. *National Labor Relations Board,* 309 U. S. 350, 360; *National Labor Relations Board* v. *Highland Park Mfg. Co.,* 110 F. 2d 632, 635 (C. A. 4).

The pertinent legislative history fully supports the Board's position. In the course of amending the Act in 1947, Congress rejected proposed changes in terms which would specifically have excluded pension and retirement matters from the bargaining requirement,[8] and retained the language of the original Act of 1935, which it was clearly given

[8] It was pointed out to the Senate by Senator Wagner and others that the proposed substitution of the term "working conditions" for the term "conditions of employment" in Section 9 (a) "would narrow the scope of collective bargaining to exclude many subjects such as, perhaps, pension plans, insurance funds, which properly belong in the employer-employee relationship and in regard to which the employer should not have the power of industrial absolutism." 93 Cong. Rec. 3323. See also, Hearings before the Senate Com-

to understand included such matters within the requirement.[8]

Moreover, while Section 302 of Title III of the amending Act proscribes the payment by employers of money or any other thing of value to employee representatives, Section 302 (c) (5) excepts from this proscription, under certain conditions, payments to trust funds established for employees' "medical or hospital care, [or] pension on retirement or death * * *." One of the conditions upon which the exception depends is that the fund be jointly administered by employer and employee representatives together with such neutral persons as may be agreed upon by the parties. We submit that it is highly unlikely that Congress would have given employees' bargaining representatives the right to participate with employers in the joint administration of such employee welfare plans and at the same time, without saying so, intended to withhold

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mittee on Labor and Public Welfare, on S. 55 and S. J. Res. 22, 80th Cong., 1st Sess., p. 1914. Similarly, a bill proposed in the House contained a specific definition of the subject matter of collective bargaining which would have omitted pensions and related matters from the bargaining requirement. Sec. 2 (11), H. R. 3020, 80th Cong., 1st sess.

[8] Senator Wagner's statement referred to above (p. 16, fn. 8) clearly suggests that pensions and insurance matters were understood to be included in the term "conditions of employment." In the House, Representative Madden said, to the same effect, that "Bargaining on this type of welfare-fund system is completely within the area of appropriate collective bargaining under the present provisions of the act." 93 Cong. Rec. 3634.

from the employees the right to bargain collectively through such representatives about the establishment and administration of such plans.

There is nothing in the legislative history of the original Act of 1935 which impairs the validity of the Board's view. The only portion of that history relied upon by the Company before the court below was that relating to the general effect of Section (8) (2) of the Act which made it an unfair labor practice for an employer to dominate, support, or interfere with, the formation or administration of a labor organization. The report of the Senate Committee on Education and Labor on the bill which became the Act (S. Rep. No. 573, on S. 1958, 74th Cong., 1st Sess., p. 10) stated: "Nor does anything in the bill interfere with the freedom of employers to establish pension benefits, outing clubs, recreational societies, and the like, so long as such organizations do not extend their functions to the field of collective bargaining, and so long as they are not used as a covert means of discriminating against or in favor of membership in any labor organization." Read in context, however, and in the light of comments by Senator Wagner on the floor of the Senate[10] and at Committee hearings,[11] it is clear that this statement did not relate to the scope of the bar-

[10] 78 Cong. Rec. 3443–3444, 79 Cong. Rec. 2371–2372, 7570.

[11] Hearings before the House Committee on Labor on H. R. 6288, 74th Cong., 1st sess., p. 15. Hearings before the Senate Committee on Education and Labor on S. 1958, 74th Cong., 1st sess., p. 41.

gaining requirement of Section 9 (a) of the Act, but was made solely to avoid having Section 8 (2) misconstrued so as to prohibit contributions to employee welfare funds.

2. The Company's contention (Pet. 12–16) that the decision of the court below is in conflict with the decisions of this Court in *J. I. Case Co.* v. *National Labor Relations Board,* 321 U. S. 332, and *H. J. Heinz Co.* v. *National Labor Relations Board,* 311 U. S. 514, is without merit. Neither of these cases involved the question here presented.

The *J. I. Case* case concerned the question whether contracts between an employer and individual employees might work a limitation upon the employer's obligation to bargain collectively with the employees' statutory representative on behalf of all the employees in the unit. 321 U. S. at 333–334. The Court did not have before it, and did not pass upon, the question here presented, whether pension and retirement matters are subjects of compulsory collective bargaining. Indeed, the Court pointedly avoided expressing an opinion upon the question whether an employer's refusal to bargain about subjects "such as stock purchase, group insurance, hospitalization, or medical attention," would constitute a violation of the Act. (*id.* at p. 339.) Moreover, we submit that the court below correctly observed (R. 419) that, "the support which the Company professes to find in the *Case* case is at least offset by the court's statement in the *United Mine*

Workers case," namely, that matters such as a "Welfare and Retirement Fund and a Medical and Hospital Fund" are matters which "normally constitute the subject matter of collective bargaining between employer and employee." *United States* v. *United Mine Workers of America,* 330 U. S. 258, 286–287.

The Company's reference to the *Heinz* case (Pet. 16) does not better its position. There is nothing in the opinion in that case to suggest that the scope of the bargaining requirement under the National Labor Relations Act is limited to precisely the scope of the bargaining requirement under the Railway Labor Act.

The court below also properly rejected the Company's contention that when the original Act was passed in 1935, pension and retirement matters were not subjects of collective bargaining and that, therefore, they can not be deemed to fall within the bargaining requirement of the Act (R. 418). The court agreed with the Board's view that such matters were, in fact, bargained about prior to 1935.[12] The court also agreed (R. 418) with the Board's view (R. 67) that such matters were, in fact, bargained about collectively at the time the Act was amended in 1947.[13]

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[12] The economic data cited in the Board's decision so demonstrates (R. 64, n. 19).

[13] Both the economic material cited in the Board's decision (R. 67, n. 25) and that set forth in the record demonstrate this fact (Bd. App. 58–61). See also the statement of this

In any event, the court below correctly observed (R. 418) that Congress did not intend to tie the scope of the bargaining requirement of the Act to 1935 concepts. There is no rule of construction which requires such a narrow interpretation of the statute. Indeed the decisions of this Court are directly to the contrary. *National Labor Relations Board* v. *Hearst Publications,* 322 U. S. 111, 124; *Weems* v. *United States,* 217 U. S. 349, 373; *Vermilya-Brown Company Inc.* v. *Cornell,* No. 22, this Term, decided December 6, 1948. The cases relied upon by the Company (Pet. 17) are not to the contrary.

3. The Company contends (Pet. 8–11, 19) that its present pension and retirement plan cannot, as a practical matter, be bargained about by the Company and the various representatives of the employees in the numerous bargaining units in the Company's plants.[14] But the question presented by this case is whether pension and retirement matters, generally, are subjects of compulsory collective bargaining under the Act. As the court below observed (R. 409), "the bargaining requirements of the Act include all retirement and pension plans or none" and the Company's retirement and pension plan, complicated as it is

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Court in the *United Mine Workers* case, *supra*, 330 U. S., at pp. 286–287.

[14] Cf. *May Department Stores Co.* v. *National Labor Relations Board*, 326 U. S. 376, 384–385.

asserted to be, must be treated and considered the same as any other such plan" (R. 409–410).

In addition, the practical difficulties envisaged by the Company (Pet. 8–9) could arise only if the views of its employees' various representatives were so far apart and tenaciously pressed as to create an impasse. There is no reason to anticipate such a situation and it should be borne in mind, too, that the obligation to bargain does not necessarily impose an obligation to agree. *National Labor Relations Board* v. *Jones & Laughlin Steel Corp.*, 301 U. S. 1, 45.

CONCLUSION

The decision below, sustaining the Board's findings and order, is correct and presents neither a conflict of decisions nor any novel questions. The petition for a writ of certiorari should be denied.

Respectfully submitted.

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JANUARY 1949.

APPENDIX

1. The relevant provisions of the National Labor Relations Act (Act of July 5, 1935, c. 372, 49 Stat. 449, 29 U. S. C. 151, *et seq.*) are as follows:

FINDINGS AND POLICY

SECTION 1. The denial by employers of the right of employees to organize and the refusal by employers to accept the procedure of collective bargaining lead to strike and other forms of industrial strife or unrest, which have the intent or the necessary effect of burdening or obstructing commerce by (a) impairing the efficiency, safety, or operation of the instrumentalities of commerce; (b) occurring in the current of commerce; (c) materially affecting, restraining, or controlling the flow of raw materials or manufactured or processed goods from or into the channels of commerce, or the prices of such materials or goods in commerce; or (d) causing diminution of employment and wages in such volume as substantially to impair or disrupt the market for goods flowing from or into the channels of commerce.

The inequality of bargaining power between employees who do not possess full freedom of association or actual liberty of contract, and employers who are organized in the corporate or other forms of ownership association substantially burdens and affects the flow of commerce, and tends to aggravate recurrent business depressions, by depressing wage rates and the purchasing

power of wage earners in industry and by preventing the stabilization of competitive wage rates and working conditions within and between industries.

Experience has proved that protection by law of the right of employees to organize and bargain collectively safeguards commerce from injury, impairment, or interruption, and promotes the flow of commerce by removing certain recognized sources of industrial strife and unrest, by encouraging practices fundamental to the friendly adjustment of industrial disputes arising out of differences as to wages, hours, or other working conditions, and by restoring equality of bargaining power between employers and employees.

It is hereby declared to be the policy of the United States to eliminate the causes of certain substantial obstructions to the free flow of commerce and to mitigate and eliminate these obstructions when they have occurred by encouraging the practice and procedure of collective bargaining and by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection.

* * * * *

SECTION 8. It shall be an unfair labor practice for an employer—

* * * * *

(5) To refuse to bargain collectively with the representatives of his employees, subject to the provisions of Section 9 (a).

REPRESENTATIVES AND ELECTIONS

SECTION 9. (a) Representatives designated or selected for the purposes of collective bargaining by the majority of the employees in a unit appropriate for such purposes, shall be the exclusive representatives of all the employees in such a unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment: * * *.

2. The relevant provisions of the National Labor Relations Act as amended by the Labor Management Relations Act, 1947, Sec. 101 (61 Stat. 136, 29 U. S. C. Supp. I, 141, *et seq.*) are as follows:

SECTION 8. (a) It shall be an unfair labor practice for an employer—

* * * * *

(5) To refuse to bargain collectively with the representatives of his employees, subject to the provisions of section 9 (a).

* * * * *

SECTION 9. (a) Representatives designated or selected for the purposes of collective bargaining by the majority of the employees in a unit appropriate for such purposes, shall be the exclusive representatives of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment: * * *.

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